

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:6-GENIN-119623-02

Date:

May 3, 2002

Re: Request to Revoke Section 179 Election

Tax Year: 1998

Dear

This letter is in response to your letter dated January 10, 2002, to the Commissioner of Internal Revenue, requesting permission to revoke the election made under section 179 of the Internal Revenue Code on your 1998 federal income tax return with respect to a vehicle placed in service in 1998. In order for us to respond to your specific request, you must submit a request for a private letter ruling. The request must comply with all the requirements of section 8 of Revenue Procedure 2002-1, 2002-1 I.R.B. 1. A copy of selected sections of Rev. Proc. 2002-1 has been enclosed for your reference. We hope that you find the following general information to be helpful.

Rev. Proc. 2002-1 provides the general procedures the Internal Revenue Service follows in issuing rulings and the related instructions for the submission of ruling requests by taxpayers. In addition, taxpayers are required by statute to pay user fees for requests for letter rulings. Under section 15 of Rev. Proc. 2002-1, the user fee must accompany the request in order to be processed by the Service. In general, the user fee is \$6,000 for private letter rulings. However, there is a reduced fee of \$500 for a request involving a business-related tax issue from a taxpayer with a gross income of less than \$1 million. See Appendix A of Rev. Proc. 2002-1.

We are also enclosing a copy of section 179 of the Code and the regulations under that section. You may find section 179(c)(2) of particular interest. Under section 179(c)(2), an election made under section 179, and any specification contained in any such election, may not be revoked except with the consent of the Commissioner. Such consent to revoke an election under section 179, however, will be granted only in extraordinary circumstances (Emphasis added). See section 1.179-5(b) of the Income Tax Regulations.

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If you should decide to request a private letter ruling, section 8.03(1) of Rev. Proc. 2002-1 provides information as to where to send the request. Also, as we have noted above, section 8 of Rev. Proc. 2002-1 provides general instructions for requesting a private letter ruling.

Further, you may want to request a change in method of accounting for depreciation for the vehicle's depreciable basis (reduced by the section 179 deduction). If a taxpayer mistakenly applied the limitation on amount of depreciation for luxury automobiles under section 280F(a) to a vehicle on two or more consecutively filed federal tax returns, the taxpayer has established a method of accounting for depreciating the vehicle. See section 1.446-1(e)(2)(ii)(a) of the regulations and Rev. Rul. 90-38, 1990-1 C.B. 57. A change from that impermissible method of accounting for depreciation to a permissible method of accounting for depreciation under which the taxpayer will claim the depreciation allowable is a change in method of accounting for which the consent of the Commissioner is required.

To obtain the Commissioner's consent to make this change in method of accounting, section 1.446-1(e)(3)(i) of the regulations requires the taxpayer to file Form 3115, Application for Change in Accounting Method, with the Commissioner during the taxable year in which the taxpayer desires to make the change in accounting method. See also, section 5.01 of Rev. Proc. 97-27, 1997-1 C. B. 680, 684. However, if the taxpayer and the property are within the scope of Rev. Proc. 2002-9, 2002-3 I.R.B. 327, including its APPENDIX, see section 6.02 of this revenue procedure for the requirements for filing the Form 3115.

This letter has called your attention to certain general principles of tax law. It is intended for informational purposes only and does not constitute a ruling. See sections 2.01 and 2.04 of Rev. Proc. 2002-1. We hope the materials enclosed will be helpful to you; however, if you should have any additional questions or comments, please contact our office at (202) 622-3110.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,
KATHLEEN REED
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (3)